

## **EXHIBIT 35**

Thursday, March 7, 2013 4:02:01 PM Pacific Standard Time

**Subject:** RE: FlatWorld v. Apple: Notice of Service of Subpoenas  
**Date:** Thursday, March 7, 2013 3:09:12 PM Pacific Standard Time  
**From:** Mark Carlson  
**To:** Michael Pieja  
**CC:** Steve Berman, Flatworld NDCA

Mike,

At Morgan Lewis, we contacted Michael J. Ossip regarding the Apple subpoenas by email:

**Michael J. Ossip**  
**General Counsel**  
**Morgan, Lewis & Bockius LLP**  
1701 Market Street | Philadelphia, PA 19103-2921  
Direct: 215.963.5761 | Main: 215.963.5000 | Fax: 215.963.5001  
[mossip@morganlewis.com](mailto:mossip@morganlewis.com) | [www.morganlewis.com](http://www.morganlewis.com)  
Assistant: Christine J. Gasiewski | 215.963.5762 | [cgasiewski@morganlewis.com](mailto:cgasiewski@morganlewis.com)

To the extent that Mr. McAleese is, or may become, a witness in this case, he is represented by our firm. Nevertheless, we authorize you to contact him in writing to extend relief from the document production deadline of the Apple subpoena at:

**John J. McAleese, III**  
**Morgan, Lewis & Bockius LLP**  
1701 Market Street | Philadelphia, PA 19103-2921  
Direct: 215.963.5094 | Mobile: 215.680.1860 | Fax: 215.963.5001 [www.morganlewis.com](http://www.morganlewis.com)  
[www.morganlewis.com/environmental](http://www.morganlewis.com/environmental) [www.morganlewis.com/climatechange](http://www.morganlewis.com/climatechange)  
Assistant: Josephine T. Antenucci | 215.963.5449 | [jantenucci@morganlewis.com](mailto:jantenucci@morganlewis.com)

Do you wish to confer on this issue today?

Mark Carlson | **Hagens Berman Sobol Shapiro LLP** | Direct: (206) 268-9346

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**From:** Michael Pieja [mailto:[mpieja@bridgesmav.com](mailto:mpieja@bridgesmav.com)]  
**Sent:** Thursday, March 07, 2013 2:39 PM  
**To:** Mark Carlson  
**Cc:** Steve Berman; Flatworld NDCA  
**Subject:** Re: FlatWorld v. Apple: Notice of Service of Subpoenas

Mark,

I appreciate the explanation and additional information -- it is very helpful. Given your concerns about timing, can you let me know whom you've spoken with at Morgan Lewis, so we can reach out to them promptly and advise them that we will be granting them an extension so we can talk the matter over with you? Similarly, have you spoken with Mr. McAleese regarding this, or has Morgan Lewis advised you that they are representing him? I would need to provide a notice of the extension to him as well.

If you can give me this information, I can take care of the extension first and then we can talk once that

is in place. Please advise. Best regards,

Mike

Michael Pieja  
Bridges & Mavrakakis LLP  
3000 El Camino Real  
One Palo Alto Square  
Palo Alto, CA 94306  
(650) 804-7810  
[mpieja@bridgesmav.com](mailto:mpieja@bridgesmav.com)

On Mar 7, 2013, at 2:05 PM, Mark Carlson wrote:

Mike,

I am available this afternoon between 3 and 5. We have addressed our concerns to Morgan Lewis, but it has informed us that it intends to produce the documents unless we obtain relief. If you wish to release Morgan Lewis and Mr. McAleese from their obligations to produce documents on March 22 in response to Apple's subpoenas pending negotiation of the privilege issues, please communicate that information to them, and copy us. But we cannot afford to negotiate with Apple while the clock ticks on the subpoena production, because we won't have time to file our motion for a protective order before Judge La Porte if we fail to reach agreement.

Mark Carlson | **Hagens Berman Sobol Shapiro LLP** | Direct: (206) 268-9346

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**From:** Michael Pieja [<mailto:mpieja@bridgesmav.com>]  
**Sent:** Thursday, March 07, 2013 1:52 PM  
**To:** Mark Carlson  
**Cc:** Steve Berman; Flatworld NDCA  
**Subject:** Re: FlatWorld v. Apple: Notice of Service of Subpoenas

Mark,

We received your explanation of your position less than 24 hours ago. We appreciate your providing this explanation and agree that a meet and confer regarding these issues is appropriate. We have a number of questions regarding this issue, including but not limited to the precise nature of the privilege claimed, precisely what you propose that Apple should do with respect to its subpoenas, and why you are addressing these concerns to Apple rather than to the parties subpoenaed, whose decision it would be whether to produce documents or not.

With respect to whatever motion practice you choose to engage in, whether here or in Philadelphia, to the extent that you are concerned about timing, we think it would be reasonable for you to simply ask whether or not we would extend the response dates for the subpoenas in question. Upon request, we would be happy to provide a reasonable extension to enable us to attempt to resolve these issues without motion practice.

If you agree to a meet and confer, please propose a time today, tomorrow, or Monday morning. Best regards,

Mike

Michael Pieja  
Bridges & Mavrakakis LLP  
3000 El Camino Real  
One Palo Alto Square  
Palo Alto, CA 94306  
(650) 804-7810  
[mpieja@bridgesmav.com](mailto:mpieja@bridgesmav.com)

On Mar 7, 2013, at 10:36 AM, Mark Carlson wrote:

Mike,

We have decided to move for a protective order before Judge La Porte with respect to Apple's attempt to perform an end run around the jurisdiction of the NDCA to challenge the spousal privilege entries on our privilege log. Obviously, this must be decided on an expedited basis to avoid production of the privileged documents on March 22 in violation of the privilege. In compliance with NDCA L.R. 6-3(a)(4)(i), we request a conference today as to whether Apple will agree to shorten time for the Court to hear the motion for a protective order. We will propose the following schedule: March 8 for the opening brief, March 13 for the opposition brief, March 15 for the reply brief, and March 18 for the hearing. Please promptly provide your availability, or consent by reply email.

Mark Carlson | **Hagens Berman Sobol Shapiro LLP** | Direct: (206) 268-9346

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**From:** Mark Carlson  
**Sent:** Wednesday, March 06, 2013 5:39 PM  
**To:** 'Michael Pieja'  
**Cc:** Steve Berman; Flatworld NDCA  
**Subject:** RE: FlatWorld v. Apple: Notice of Service of Subpoenas

Mike,

The documents that Apple has subpoenaed include documents that were listed on our privilege log as being subject to the spousal privilege, as you well know. The spousal privilege belongs to Jennifer McAleese, one of FlatWorld's members, and the documents you seek to compel are in the possession of her husband, John McAleese. We intend to move to quash both subpoenas to the extent that they seek privileged communications between the spouses. If you would like to avoid a motion to quash in Philadelphia, we "request" (not demand as you misrepresent), that you amend the scope of the subpoenas. We view this as an attempt by Apple to do an end run around the NDCA. If you wish to challenge FlatWorld's privilege log, the proper forum for that challenge is in the NDCA, not Philadelphia.

Please let us know whether you will comply with our request. Otherwise, we will move to quash.

Mark Carlson | **Hagens Berman Sobol Shapiro LLP** | Direct: (206) 268-9346

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**From:** Michael Pieja [<mailto:mpieja@bridgesmav.com>]

**Sent:** Wednesday, March 06, 2013 5:30 PM  
**To:** Mark Carlson  
**Cc:** Steve Berman; Flatworld NDCA  
**Subject:** Re: FlatWorld v. Apple: Notice of Service of Subpoenas

Mark,

We are always happy to meet and confer about any legitimate issue, but we do not understand your position here. Your email demands that we alter the scope of our subpoenas to Morgan Lewis and John McAleese III. But these subpoenas were not issued to Flatworld, but rather to third parties. Please explain the basis for your demand that Apple alter the scope of subpoenas issued to third parties. Best regards,

Mike

Michael Pieja  
Bridges & Mavrakakis LLP  
3000 El Camino Real  
One Palo Alto Square  
Palo Alto, CA 94306  
(650) 804-7810  
[mpieja@bridgesmav.com](mailto:mpieja@bridgesmav.com)

On Mar 5, 2013, at 11:37 AM, Mark Carlson wrote:

Mike,

As stated in FlatWorld's privilege log, FlatWorld asserts that all communications between John and Jennifer McAleese are subject to the spousal privilege. Therefore, we object to the attached subpoenas to the extent that they seek to invade that privilege by compelling production of such communications.

We request that you either amend the scope of the subpoenas so as to exclude privileged communications, or provide your availability to meet and confer this week.

Mark Carlson | **Hagens Berman Sobol Shapiro LLP** | Direct: (206) 268-9346

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**From:** Michael Pieja [<mailto:mpieja@bridgesmav.com>]  
**Sent:** Friday, March 01, 2013 3:09 PM  
**To:** Steve Berman; Mark Carlson  
**Cc:** Flatworld NDCA  
**Subject:** FlatWorld v. Apple: Notice of Service of Subpoenas

Counsel:

Please be advised that Apple will serve the subpoenas below on Morgan, Lewis & Bockius LLP and John McAleese III. Kind regards,

Mike

Michael Pieja  
Bridges & Mavrakakis LLP  
3000 El Camino Real  
One Palo Alto Square  
Palo Alto, CA 94306  
(650) 804-7810  
[mpieja@bridgesmav.com](mailto:mpieja@bridgesmav.com)